

IN THE UNITED STATES DISTRICT COURT – EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION

FILED

U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

DEC 12 2018

RICKEY LYNN RUSSELL, JR.,
Special Personal Representative of the
Estate of RICKEY L. RUSSELL, SR., Deceased

JAMES W. McCORMACK CLERK
By: PLAINTIFFS *Plumley*
DEP CLERK

VS.

Case No.: 3:18cv00245 DPM

ALTEX LOGISTICS, INC.;

NECATI BULUT; AND JOHN DOE NOS. 1-4

DEFENDANTS

*This case assigned to District Judge Marshall
and to Magistrate Judge Kearney*

COMPLAINT

COMES NOW Plaintiff Rickey Lynn Russell, Jr., Special Personal Representative of the Estate of Rickey L. Russell, Sr., by and through his attorneys, McDaniel Law Firm, PLC, and for his Complaint against Altex Logistics, Inc., Necati Bulut, and John Doe Nos. 1-4, states as follows:

JURISDICTION AND VENUE

1. Plaintiff Rickey Lynn Russell, Jr., is the duly appointed Special Personal Representative of the Estate of Rickey L. Russell, Sr., having been so appointed by the Probate Court of Poinsett County on or about October 9, 2018. By virtue of this appointment, he has authority to act on behalf of the Estate of Rickey L. Russell, Sr., and all wrongful death beneficiaries.

2. At all times pertinent hereto, Decedent Rickey L. Russell, Sr., was a resident of Lepanto, Poinsett County, Arkansas.

3. At all times pertinent hereto, Defendant Altex Logistics, Inc. (hereinafter referred to as "Altex Logistics") is/was a foreign for-profit corporation doing business in the State of Arkansas.

4. That Defendant Altex Logistics' headquarters and principal place of business is located in Riverwoods, IL.

5. That Alina Kim, 2300 Milwaukee Avenue, Suite 354, Riverwoods, IL 60015, is the registered agent for service of process for Defendant Altex Logistics.

6. Defendant Necati Bulut (hereinafter referred to as "Bulut") was, at the time of the occurrence, a resident of Houston, Texas.

7. That at the time of the occurrence referred to herein, Defendant Bulut was driving a truck owned, leased, maintained, and/or operated by or on behalf of Defendant Altex Logistics.

8. That at the time of the occurrence, Defendant Bulut was the agent, servant and/or employee of Defendant Altex Logistics.

9. That at the time of the occurrence referred to herein, Defendant Bulut was in the course and scope of his employment and/or agency relationship with Defendant Altex Logistics.

10. That in addition and/or in the alternative to the above, Defendant John Doe Nos. 1-2, is the official name of any person or entity with which Defendant Altex Logistics and/or Defendant Bulut may be associated (including other principal(s), employer(s), or successor(s)-in-interest.) Further, Defendant John Doe Nos. 3-4 represent any shipper, broker, supplier, and/or, as applicable, recipient(s) of the loads being hauled by Defendant Bulut at the time of the subject occurrence.

11. That upon determining the identity of any current unknown tortfeasor, person or entity, Plaintiffs will amend the Complaint by substituting the real name for the pseudo-name.

12. That pursuant to A.C.A. §16-56-125, Plaintiffs have attached the Affidavit of Plaintiffs' Attorneys, affirming the identity of a tortfeasor(s) is unknown, as "**Exhibit A.**"

13. That this Court has personal jurisdiction over the parties hereto.

14. That this Court is the proper venue for this action as the subject wreck occurred in this District. 28 U.S.C.A. §1391(b).

15. That Plaintiffs bring this action pursuant to matters including, but not limited to, the Arkansas Survival and Wrongful Death Statutes, A.C.A. § 16-62-101 and A.C.A. § 16-62-102.

FACTS

16. That on or about September 1, 2018, Defendant Bulut drove a tractor-trailer owned and/or leased by Defendant Altex Logistics.

17. That the tractor trailer involved in this collision was operated under U.S. Department of Transportation (“DOT”) #2399662.

18. That DOT #2399662 is a permit to engage in interstate commercial transport by Defendant Altex Logistics.

19. That on September 1, 2018, Defendant Bulut had a Commercial Drivers License (“CDL”).

20. That at all times pertinent hereto, Defendant Bulut was a professional truck driver subject to the regulations of the United States Department of Transportation and/or the State of Arkansas.

21. That at all times pertinent hereto including, but not limited to September 1, 2018, Defendant Bulut was in the course and scope of his employment and/or agency relationship with Defendant Altex Logistics.

22. That on September 1, 2018, at the time of the subject collision, it was clear and the highway was dry.

23. That on September 1, 2018, in the moments preceding the subject collision, Decedent Rickey L. Russell, Sr., was driving a 2006 Ford Pickup south on State Highway 135 approaching the intersection with State Highway 118.

24. That at the same time, Defendant Bulut was driving his tractor-trailer west on U.S. State Highway 118 approaching the intersection with State Highway 135.

25. That there is a stop sign for westbound traffic on State Highway 118 before entering or crossing State Highway 135.

26. That Defendant Bulut failed to stop at the stop sign before driving through the intersection with State Highway 135.

27. That Defendant Bulut's tractor-trailer pulled directly onto the path of Decedent Rickey L. Russell., Sr.'s, southbound vehicle.

28. That Decedent Rickey L. Russell, Sr.'s, vehicle was unable to avoid Defendant Bulut's tractor trailer.

29. That Decedent Rickey L. Russell, Sr.'s, vehicle collided with the right side of Defendant Bulut's tractor-trailer at a significant rate of speed.

30. That the damage to Rickey L. Russell Sr.'s vehicle was catastrophic.

31. That Decedent Rickey L. Russell, Sr., died at the scene.

32. That the subject collision and all damages related thereto occurred as a proximate result of the negligent conduct of Defendant Bulut (which is imputed to Defendant Altex Logistics) in particulars including, but not limited to, the following:

- a. That Defendant Bulut failed to yield the right of way;
- b. That Defendant Bulut failed to stop for a stop sign;
- c. That Defendant Bulut failed to maintain a proper lookout under the circumstances then and there existing;

- d. That Defendant Bulut failed to maintain proper control of his vehicle for the circumstances then and there existing;
- e. That Defendant Bulut failed to operate his vehicle at a reasonable speed for the circumstances then and there existing;
- f. That Defendant Bulut failed to comply with all rules, regulations, and duties required by the laws of the State of Arkansas and/or by DOT regulations; and
- g. That Defendant Bulut failed to use ordinary care under the circumstances then and there existing.

33. That Defendant Altex Logistics was negligent in particulars including, but not limited to, the following:

- a. Negligence in the hiring, training, and supervision of Defendant Bulut; and,
- b. Negligent failure to comply with all rules, regulations, and duties required by the laws of the State of Arkansas and by DOT regulations;
- c. Otherwise failing to exercise ordinary care under the circumstances.

34. That Decedent Rickey L. Russell, Sr., was not guilty of any comparative fault.

35. That no other person, firm, company, corporation, or entity of any type, other than those identified herein, was guilty of any negligence which was a proximate and contributing cause of the subject collision and/or Plaintiffs' damages.

36. That the conduct of Defendant Bulut is imputed to Defendant Altex Logistics (and/or John Doe Nos. 1-4) under the doctrine of respondeat superior, vicarious liability, and/or by federal regulations in that he was the driver for Defendant Altex Logistics (and/or John Doe Nos. 1-4) and in the course and scope of his employment or agency relationship.

37. That as a result of Defendants' negligence, Plaintiff Rickey Lynn Russell, Jr., Special Personal Representative of the Estate of Rickey L. Russell, Sr., Deceased, brings this

action on behalf of the Estate and of the heirs and beneficiaries at law of Decedent Rickey L. Russell, Sr., who are:

<u>Name</u>	<u>Relationship</u>	<u>Address</u>
Donna Russell	Wife	40879 Pritchett Road Lepanto, AR 72354
Rickey Lynn Russell, Jr.	Son	930 School St. Lepanto, AR 72354
Tonya Cook	Daughter	6356 Blocker St. Olive Branch, MS 38654
Logan Russell	Brother	Tyronza, AR
Dennis Russell	Brother	Carroll's Corner, AR
Johnny Russell	Brother	Heafer, AR
Stevie Russell	Brother	Heafer, AR

38. That Plaintiff Rickey Lynn Russell, Jr., Special Personal Representative of the Estate of Rickey L. Russell, Sr., Deceased, seeks compensatory damages for the wrongful death of Rickey L. Russell, Sr., Deceased, against Defendant Altex Logistics and Defendant Bulut (and/or John Doe Nos. 1-4), jointly and/or severally, in an amount in excess of that required for federal diversity jurisdiction because of Defendants' individual and/or collective negligence, including, but not limited to, the following:

- a. Pecuniary injuries sustained by the Estate and/or the individual beneficiaries;
- b. Mental anguish and grief suffered by each beneficiary in the past and future; and
- c. All other elements of damages recoverable under Arkansas' wrongful death law(s) on behalf of the Estate and/or the Individual beneficiaries.

39. That Plaintiff Rickey Lynn Russell, Jr., Special Personal Representative of the Estate of Rickey L. Russell, Sr., Deceased, seeks the following survivorship elements of damage on behalf of the Estate of Rickey L. Russell, Sr., Deceased:

- a. Rickey L. Russell, Sr.'s loss of life;
- b. Conscious pain, suffering, and mental anguish endured by Rickey L. Russell, Sr. prior to his death;
- c. Any medical expenses attributed to the negligent acts of Defendants;
- d. The reasonable value of Rickey L. Russell, Sr.'s funeral expenses; and
- e. All other elements of damage allowed by law.

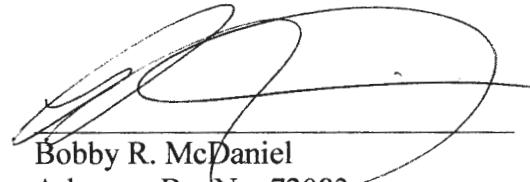
40. That Plaintiff respectfully requests a trial by jury of twelve (12) persons.

41. That Plaintiff respectfully reserves the right to amend and plead further in this cause.

WHEREFORE, Plaintiff Rickey Lynn Russell, Jr., Special Personal Representative for the Estate of Rickey L. Russell, Sr., Deceased, prays he have and recover damages from Defendants (individually and/or collectively) in an amount to be set by the jury in excess of the minimum required for federal court diversity jurisdiction, for his costs, and for all other relief to which Plaintiff may be entitled.

RESPECTFULLY SUBMITTED this 12 day of December, 2018.

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Deceased.*